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## NOTICE OF ALLOWANCE AND FEE(S) DUE

27195 7590 02/19/2004

AMIN & TUROCY, LLP  
24TH FLOOR, NATIONAL CITY CENTER  
1900 EAST NINTH STREET  
CLEVELAND, OH 44114

EXAMINER	
SINGH, RACHNA	
ART UNIT	PAPER NUMBER
2176	21
DATE MAILED: 02/19/2004	

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/364,527	07/30/1999	ERIC HORVITZ	1018.025US1	9577

TITLE OF INVENTION: METHOD FOR AUTOMATICALLY ASSIGNING PRIORITIES TO DOCUMENTS AND MESSAGES

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1330	\$0	\$1330	05/19/2004

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

### HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status is changed, pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above and notify the United States Patent and Trademark Office of the change in status, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check the box below and enclose the PUBLICATION FEE and 1/2 the ISSUE FEE shown above.

☐ Applicant claims SMALL ENTITY status.  
See 37 CFR 1.27.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

# **PART B - FEE(S) TRANSMITTAL**

Complete and send this form, together with applicable fee(s), to: **Mail**

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27195 7590 02/19/2004

**AMIN & TUROCY, LLP  
24TH FLOOR, NATIONAL CITY CENTER  
1900 EAST NINTH STREET  
CLEVELAND, OH 44114**

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

## **Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

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nonprovisional	NO	\$1330	\$0	\$1330	05/19/2004

EXAMINER	ART UNIT	CLASS-SUBCLASS
SINGH, RACHNA	2176	707-514000

**1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).**

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

**2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.**

1	_____
2	_____
3	_____

## **3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)**

**PLEASE NOTE:** Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

**(A) NAME OF ASSIGNEE**

**(B) RESIDENCE: (CITY and STATE OR COUNTRY)**

Please check the appropriate assignee category or categories (will not be printed on the patent); ☐ individual ☐ corporation or other private group entity ☐ government

## **4a. The following fee(s) are enclosed:**

- ☐ Issue Fee
- ☐ Publication Fee
- ☐ Advance Order - # of Copies \_\_\_\_\_

## **4b. Payment of Fee(s):**

- ☐ A check in the amount of the fee(s) is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

Director for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

(Authorized Signature)

(Date)

**NOTE:** The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Alexandria, Virginia 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS.** SEND TO: Commissioner for Patents, Alexandria, Virginia 22313-1450.

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AMIN & TUROCY, LLP 24TH FLOOR, NATIONAL CITY CENTER 1900 EAST NINTH STREET CLEVELAND, OH 44114			EXAMINER SINGH, RACHNA	
			ART UNIT 2176	PAPER NUMBER 21
DATE MAILED: 02/19/2004				

## Determination of Patent Term Extension under 35 U.S.C. 154 (b) (application filed after June 7, 1995 but prior to May 29, 2000)

The Patent Term Extension is 0 day(s). Any patent to issue from the above-identified application will include an indication of the 0 day extension on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Extension is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) system (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (703) 305-1383. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

**Notice of Allowability**

Application No.

09/364,527

Applicant(s)

HORVITZ, ERIC

Examiner

Rachna Singh

Art Unit

2176

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 1/20/04.
2. ☒ The allowed claim(s) is/are 36.
3. ☒ The drawings filed on 20 January 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 4, 5, and 15
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

### **DETAILED ACTION**

1. This action is responsive to communications: Amendment B filed 1/20/04 and Declaration filed 1/20/04.

#### ***Response to Amendment***

2. The declaration under 37 CFR 1.132 filed 1/20/04 is sufficient to overcome the 35 U.S.C. 112, 2<sup>nd</sup> paragraph rejection of claim 36 based upon the clarification that the selected text, not the implicit training module, comprises the features of "having an assigned priority" and "comprising new training messages to the text classifier". The declaration has also clarified the derivation of the term "assigned priority" as pointed out in the specification.

In response to Applicant's arguments regarding Interference, please see the "Interference" below.

#### ***Allowable Subject Matter***

3. The following is an examiner's statement of reasons for allowance:

Applicant's arguments and declaration under 37 CFR 1.132 have overcome the U.S.C. 112, 2<sup>nd</sup> paragraph rejection. The two features of "having an assigned priority" and "comprising new training messages to the text classifier" are understood to be directed to the "selected text", not the "implicit training module" as indicated by a comma separating the phrase, "the selected text having an assigned priority and comprising new training messages to the text classifier" from the other portions of the claim limitations. The term "assigned priority" is being interpreted as being assigned by the

implicit training module as specified in the specifications on pages 16-17 of the specification.

As there are no prior art rejections pending in the case and Applicant has overcome the 112, 2<sup>nd</sup> paragraph rejections, the pending claim is allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

#### ***Interference***

4. Claim 36 of this application is asserted by applicant to correspond to claim(s) of U.S. Patent No. 6,408,277 B1.

The examiner does not consider this claim to be directed to the same invention as that of U.S. Patent No. 6,408,277 B1 because of the following reasons:

As stated in the previous office action, Examiner notes that Nelken's "task" differs from Applicant's "text" since a task incorporates any action that can be performed by the agent or electronic system (see Nelken, column 1). While a task can incorporate a piece of data such as a text, it is also able to incorporate the action of choosing a message which the Applicant's claimed "text" cannot do. In response to Applicant's argument and Declaration that Nelken has extended his definition by stating that a task "may be a piece of data that must be acted on in some fashion"; however, the actual use of the term, "task", within the Nelken patent is limited to text to be prioritized, Examiner disagrees. Applicant points out column 1, lines 53-57 and Col. 4, lines 24-26

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and lines 38-40 to show how the prioritization system of Nelken has a task parser that includes a natural language processor for analyzing the content of text. Applicant further points out that Nelken's patent are directed to text-based communications and not actions and any "tasks" are treated within the Nelken patent as being a species of text-based communications. Examiner points to Column 4, lines 30-35 in which Nelken teaches that a "task" parser may include a voice communication processor that analyzes tasks received via a voice-based channel, where the voice tasks were NOT converted to text by the contact center. The voice communication processor may be configured to detect emotional content of a voice task as well as to parse the task into concepts. Emotional content such as stress or anger may correspond to priority criteria that indicate a high priority. Thus Nelken not only takes into account text communications but other types of communications including that of voice without converting it into some form of a text-based communication. See column 4, lines 30-35. In light of these comments, Examiner is not convinced that the present invention renders the Nelken patent as being obvious.

Applicant's arguments and declaration argue that a "task queue" and storage media are the "same" based on the standard of obviousness, in that a queue does not indicate the presence of a software algorithm any more than does a storage media. Examiner points out that a queue is a priority system in which the tasks are lined up in light of other "tasks" or "jobs". As stated in the previous office action, a task queue does indicate the presence of some software algorithm that works in conjunction with the operating system. A queue uses a data structure (FIFO (first-in first-out)) to sequence

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multiple demands for a resource. Queues are used in operating systems and involve placing something on the queue and taking it off and processing it; whereas, a storage media is a device into which data can be entered, held, and retrieved at a later time. The two vary in that a queue involves a data structure to sequence demands. A storage media simply places and holds data for retrieval later on and does not involve the process that a queue utilizes. Moreover, the Applicant's claimed storage media stores "text" in order of its priority and does not take into account other "tasks" or "jobs" existing in the queue. Nelken's "task queue" is different than the Applicant's "storage media configured to store text in order of priority" because the storage media does not take into account other tasks that may not be text-based communications. In other words, Applicant's "storage media" is limited to the priorities of text regardless of other tasks that could be present in the storage media.

Thus Examiner believes that the two-way obviousness test fails in considering the features of Nelken's claim 1 and claim 36 of the current invention. However, the Examiner states that the inventions would be separately patentable. Accordingly, an interference cannot be initiated based upon this claim.

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rachna Singh whose telephone number is 703.305.1952. The examiner can normally be reached on M-F (8:30-5).




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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on 703.305.9792. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RS  
2/13/04

  
**JOSEPH FEILD**  
**SUPERVISORY PATENT EXAMINER**